Item #92
(5506)

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 5, 2006

To: The Commission
(Meeting of April 13, 2006)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 2622 (Ruskin) Wireless service: 30 day right of rescission.**
As Introduced February 24, 2006

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: No recommendation.

SUMMARY OF BILL:

AB 2622 would require wireless carriers to extend a minimum 30 day grace period to new customers during which the customer may rescind the agreement without cost or penalty, if the service is unsatisfactory. The 30 day grace period would also apply to existing customers who execute an agreement for a new service, renewal of service or modification of service. This bill would also require wireless carriers to notify customers of the 30 day grace period. This bill would not apply to month-to-month and prepaid wireless accounts.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

On March 2, 2006, the CPUC adopted D.06-03-013, establishing rules to empower telecommunications consumers and prevent fraud. By adopting D.06-03-013, the CPUC decided to eliminate the 30 day requirement. Given the pending implementation of the recently adopted consumer protection and fraud prevention rules, the CPUC should oppose AB 2622.

SUMMARY OF SUGGESTED AMENDMENTS (if any):

None.

DIVISION ANALYSIS (TD):

- No CPUC decision currently mandates a specific grace period for consumers associated with wireless services. As described below, the CPUC recently rescinded the 30 day requirement specified in D.04-05-057 and the original GO 168.

- In May 2004, the CPUC adopted D.04-05-057 and GO 168, establishing consumer protection rules. D.04-05-057 contained a 30 day requirement similar to that contained in AB 2622. In January 2005, the CPUC stayed that decision and general order to allow adequate time to address implementation issues, to ensure that California's consumer protection structure would be viable and enforceable, and to consider a broader reexamination of policy issues in the decision.

- On March 2, 2006, the CPUC adopted D.06-03-013, establishing rules to empower telecommunications consumers and prevent fraud. By adopting D.06-03-013, the CPUC revised GO 168 and the rules in it. The current version of GO 168 has consumer protection and public safety rules related to CPUC staff requests for information, telecommunications worker identification and E 911, but eliminated the 30 day requirement. It also contains rules governing slamming and cramming complaints.

- AB 2622 would mandate a return to a rule recently rescinded by the CPUC. In addition, no trend based data has been identified demonstrating consumer issues with current grace period practices of wireless carriers. D.06-03-013 includes measures to update the CPUC's complaint database system, which will allow for more precise tracking of consumer complaints regarding telecommunication services.

PROGRAM BACKGROUND:

See discussion above.

LEGISLATIVE HISTORY:

Senator Bowen's SB 1601 (As amended August 15, 2002) would have required a 14-day right of rescission. It died on the Senate Inactive File.

Senator Bowen's SB 128 (As amended March 10, 2003) would have required a minimum 30-day grace period. It was amended to an unspecified grace period and died on the Assembly Inactive File.

Senator Escutia's SB 1068 (As amended June 30, 2005) would require a 30-day right of rescission. It is currently sitting in the Assembly Utilities and Commerce Committee.

FISCAL IMPACT ON THE CPUC:

None.

STATUS: This bill has been referred to the Assembly Utilities & Commerce Committee, and is awaiting a hearing date.

SUPPORT/OPPOSITION: (as of 3/31/06)

Support: Consumer Federation of California (Sponsor)

Oppose: Unknown.

STAFF CONTACT

Pam Loomis — pcl@cpuc.ca.gov
CPUC-OGA — (916) 327-8441

Risa Hernandez — rhh@cpuc.ca.gov
Telecommunications Division — (415) 703-1778

Gretchen Dumas — gtd@cpuc.ca.gov
Legal Division — (415) 703-1210

Date: April 5, 2006

BILL LANGUAGE:

BILL NUMBER: AB 2622 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Ruskin

FEBRUARY 24, 2006

An act to add Article 6 (commencing with Section 2899) to Chapter 10 of Part 2 of Division 1 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 2622, as introduced, Ruskin Telecommunications: mobile telephony services.

Under existing law, the Federal Communications Commission licenses and partially regulates providers of commercial mobile radio service, including providers of cellular radiotelephone service (cellular), broadband Personal Communications Services (PCS), and digital Specialized Mobile Radio (SMR) services (collectively, mobile telephony service providers). Under existing law, no state or local government may regulate the entry of, or the rates charged by, any commercial mobile radio service, but a state or local government is generally not prohibited from regulating the other terms and conditions of commercial mobile radio service.

Existing law authorizes the Public Utilities Commission to regulate telecommunications services and rates of telephone corporations, except to the extent regulation of commercial mobile radio service is preempted by federal regulation, and to require telephone corporations to provide customer services. Existing law requires a provider of mobile telephony services to provide subscribers with a means by which a subscriber can obtain reasonably current and available information on the subscriber's calling plan or plans and service usage.

This bill would require that providers of mobile telephony service extend a minimum 30-day grace period to new customers during which the customer may rescind the agreement, without cost or penalty, if the customer finds that the service is unsatisfactory. The bill would require that providers of mobile telephony service extend a minimum 30-day grace period to existing customers that execute an agreement for new service, renewal of service, or modification of service, if the customer finds that the service is unsatisfactory. The bill would further require that providers of mobile telephony service provide notice to consumers of these rights. A customer exercising the option to cancel within the 30-day grace period would be required to pay for those services used prior to the cancellation of the agreement. The bill would except month-to-month accounts, as defined, and prepaid accounts, as defined, from these requirements.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 6 (commencing with Section 2899) is added to Chapter 10 of Part 2 of Division 1 of the Public Utilities Code, to read:

Article 6. Mobile Telephony Services

2899. For purposes of this article, the following terms have the following meanings:

(a) "Mobile telephony service" means commercially available interconnected mobile phone services that provide access to the public switched telephone network (PSTN) via mobile communication devices employing radiowave technology to transmit calls, including cellular radiotelephone, broadband Personal Communications Services (PCS), and digital Specialized Mobile Radio (SMR). "Mobile telephony services" does not include mobile satellite services or mobile data services used exclusively for the delivery of nonvoice information to a mobile device.

(b) "Month-to-month account" means a contract for mobile telephony services where the customer is not required to purchase more than one month of service.

(c) "Prepaid account" means a contract for mobile telephony services for a specified dollar amount less than one hundred dollars ($100) that the customer pays in full prior to receiving service.

2899.1. (a) Every provider of mobile telephony services shall, without cost or penalty, extend to new service customers a grace period of at least 30 days after executing the agreement, for customers to rescind the agreement and terminate service, if the customer finds that the service is unsatisfactory, except that the customer shall pay for those services used prior to the cancellation of the agreement. Every new mobile telephony service agreement shall provide reasonable notice of this grace period and the right of the customer to rescind the agreement if the customer finds that the service quality is unsatisfactory.

(b) Every provider of mobile telephony services shall, without cost or penalty, extend to existing customers a grace period of at least 30 days after executing an agreement for new service, renewal of service, or modification of service, for customers to rescind the agreement and terminate service, if the customer finds that the service is unsatisfactory, except that the customer shall pay for those services used prior to the cancellation of the agreement. Every new mobile telephony service agreement with an existing customer shall provide reasonable notice of this grace period and the right of the customer to rescind the agreement if the customer finds that the service is unsatisfactory.

(c) This section shall not apply to a month-to-month account or prepaid account.

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